United Nations S/AC.37/2005/(1455)/3

Security Council

Distr.: General
8 February 2005
English
Original: Spanish

Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Note verbale dated 1 February 2005 from the Permanent Mission of Bolivia to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Bolivia to the United Nations presents its compliments to the Chairman of the Committee and has the honour to transmit, annexed hereto, a copy of the report sent by the Vice-Ministry of Foreign Affairs and Worship of Bolivia, pursuant to Security Council resolution 1455 (2003) (see annex).

05-23294 (E) 010305 070305

Annex to the note verbale dated 1 February 2005 from the Permanent Mission of Bolivia to the United Nations addressed to the Chairman of the Committee

Implementation of Security Council resolution 1455 (2003)

II. Consolidated List

2. **How has the 1267 Committee's List been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?**

In November 2001 the Financial Intelligence Unit (FIU), acting within its mandate, circulated the List provided by the Security Council and instructed entities of the national financial system to report to it immediately any type of transaction carried out by the listed individuals and entities. The FIU has also organized a training course for representatives of these financial entities to inform them about this obligation and the modalities of reporting.

3. **Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the List? If so, please describe these problems.**

Yes. Most financial entities have been unable to differentiate between first and last names, and this has slowed down their research efforts. Moreover, in many cases, the List provides no information concerning individuals' identity documents or the origin of these documents.

4. **Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.**

Bolivia's national financial system has not identified any of the designated individuals.

III. Financial and Economic Assets Freeze

9. **Please describe briefly:**

- **the domestic legal basis to implement the asset freeze required by the resolutions above;**
- **any impediments under your domestic law in this context and steps taken to address them.**

Bolivia's criminal law does not contain specific provisions regarding terrorist financing.

10. **Please describe any structures or mechanisms in place within your Government to identify and investigate Osama bin Laden, Al-Qaida or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.**

The FIU is responsible for investigating money-laundering operations, through the financial system, using the mandatory reports submitted by financial entities

concerning individuals who may be involved in such activities. At the national level, its activities are coordinated with the National Police, the Special Drug Trafficking Unit, and the Ministry of the Interior. At the international level, the legal basis of FIU (Supreme Decree No. 24771) allows it to share information with other, similar international agencies. In this regard, the FIU has signed a number of memoranda of understanding, and is also a member of the Egmont Group, which comprises 74 financial intelligence units from other countries, with which Bolivia's FIU maintains close contact.

11. **Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Osama bin Laden or members of Al-Qaida or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.**

Supreme Decree No. 24771 of 31 July 1997 regulates the FIU, which is the agency responsible for receiving, requesting, analysing and, if necessary, transmitting to the competent authorities the requisite, duly processed information concerning the laundering of illicit profits. The regulation applies to the following activities:

1. Financial intermediary and auxiliary financial services;

2. Foreign-exchange brokerage and activities relating to the foreign-exchange market;

3. Activities of insurance companies, brokers and auxiliary services.

According to article 26 of the Supreme Decree, the "know your customer" policy is a mandatory requirement for all financial entities when initiating a business relationship with any type of customer. The Supreme Decree also contains the following articles, which stipulate the obligations of such entities and reinforce article 26:

- Article 27 — Special oversight of certain transactions
- Article 28 — Registration
- Article 29 — Record-keeping
- Article 30 — Reporting suspicious transactions
- Article 31 — Prohibiting the release of information to the customer
- Article 32 — Obligation to inform the FIU
- Article 34 — Internal monitoring
- Article 35 — Training
- Article 36 — Monitoring and surveillance of staff

Moreover, the FIU, acting within its mandate, has drawn up a set of specific instructions for all institutions covered by Supreme Decree No. 24771. These instructions include the "know your customer" policy of the Financial Action Task Force (FATF) as well as the Special Recommendations on Terrorist Financing.

Lastly, as an oversight measure, the FIU has requested the Banks and Financial Entities Inspectorate to include routinely in its annual scheduled (on-site) inspections the monitoring of measures taken to combat money-laundering. This monitoring began in January 2003.

14. **Pursuant to resolutions 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to Listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:**

- **The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of Al-Qaida or the Taliban. This section should include an indication of the types of institutions informed and the methods used.**

Acting within its mandate, the FIU has informed the financial institutions covered by Supreme Decree No. 24771 of their obligation to report any type of financial transaction carried out by individuals identified by the Committee.

- **Required bank-reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated.**

Article 30 of Supreme Decree No. 24771 sets out the obligation of financial entities to submit Suspicious Transaction Reports to the FIU. As a supplement to this article, the FIU issued administrative decision UIF/016/99 of 12 July 1999, which establishes the instructions and operational manual for the prevention, detection and reporting of the laundering of illicit profits in the financial system and auxiliary services.

IV. Travel Ban

"Under the sanctions regime, all States shall take measures to prevent the entry into or transit through their territories of Listed individuals (paragraph 1 of resolution 1455 (2003), paragraph 2 (b) of resolution 1390 (2002))."

15. **Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.**

Chapter VI, "Restrictions on entry into the country of foreign nationals", of Supreme Decree No. 24423, "Immigration regime", stipulates the following:

Article 46 — Foreign nationals who fall into the following categories shall be prohibited from entering the country:

(a) Individuals presenting forged or falsified documents;

(b) Individuals who have been convicted or prosecuted for common crimes, individuals accused of terrorism or money-laundering, counterfeiters or drug traffickers and individuals whose previous conduct indicates a

potential danger to national security, public order or the established authorities;

(c) Individuals who have been expelled from Bolivia for any reason in application of article 48 of this Supreme Decree;

(d) Individuals not in possession of the proper visa, unless exempt under international agreements;

(e) Individuals suffering from infectious or contagious diseases, psychopaths, alcoholics, dangerously violent persons or drug addicts;

(f) Individuals under 21 years of age unaccompanied by their parents or legal representative or not in possession of a written authorization signed by a competent authority and endorsed by a Bolivian consul;

(g) Individuals who are obviously vagrants and who cannot prove that they have sufficient resources to support themselves during their stay in the country;

(h) Individuals over 70 years of age who have no one to support them in Bolivia, who are not accompanied by immigrants who are able to work or who do not demonstrate the economic means to support themselves during their stay in the national territory.

As a supplement to administrative immigration law, for the purposes of preventing and/or punishing criminal offences, including terrorism, the provisions of Bolivian criminal law apply in the following areas:

Book II, Chapter III of the Special Section of the Bolivian Criminal Code, entitled "Crimes against public order", contains six articles designed to protect the country's internal security. Article 133 defines the relevant offences and states:

Anyone who participates in, acts on behalf of, or collaborates with an armed organization formed to commit crimes against public security, life, physical integrity, freedom of action, or property, with a view to subverting the constitutional order or instilling a state of collective fear, alarm or panic in the population or in a sector of the population, shall be punished by rigorous imprisonment of 15 to 20 years, without prejudice to the penalty envisaged for such crimes.

Article 139, "Piracy" stipulates:

Anyone who seizes, diverts from its established route, or destroys ships or aircraft; captures, kills or injures their crew or passengers; or commits any act of depredation shall be sentenced to deprivation of liberty for a period of between two and eight years.

The same penalty shall be imposed on anyone who, from the territory of the Republic, knowingly deals with or assists pirates.

16. **Have you included the names of the Listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.**

The physical and computerized databases of the Immigration Service contain only brief information on foreign nationals who have been expelled from the country and the grounds for their expulsion. Bolivia does not maintain a "stop list".

17. **How often do you transmit the updated list to your border control authorities? Do you possess the capability of searching List data using electronic means at all your entry points?**

Updated information transmitted to border control posts on the list of individuals expelled from the country is sent once a week, as necessary. Bolivia does not possess electronic means for the systematic monitoring and searching of the list at all its entry points.

Information on the list is updated through the exchange of information on the prevention and combating of terrorism, with a view to maintaining internal order. This information is procured in the first place and in a timely manner through the security mechanisms;

Externally, ongoing contact is maintained and early-warning information is exchanged through: police and military liaison officers, the International Criminal Police Organization (Interpol), the intelligence agencies of each neighbouring country, and the Common Market of the Southern Cone (MERCOSUR) within the framework of the committee on follow-up and the crime centre, as well as the permanent working group and its specialized working group.

18. **Have you stopped any of the Listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.**

No.

19. **Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your Consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the List?**

No. However, article 48 of Supreme Decree No. 24423 of 29 November 1996 on the Immigration Regime regulates the expulsion of foreign nationals, specifying those individuals who may be expelled from the country and permanently banned from returning to Bolivian territory. Paragraph (f) of the article provides for compulsory expulsion in the case of individuals "who participate directly or indirectly in activities involving money-laundering, drug trafficking, terrorism ..."

National police

Please note the following points:

1. In accordance with the Constitution and its Organic Law, the Bolivian National Police operate a number of specialized anti-terrorism units such as the Anti-Terrorism Centre (CEAT), which is attached to the National Intelligence Department and has been strengthened to deal with problems and cases linked to radical Islamic terrorism.

2. Bolivia is fully aware of the potential danger of the terrorist threat from Islamic fundamentalist groups such as Al-Qaida, the Taliban, their associates and probable related entities. In this regard, investigations have not detected

any irregular activity in the Bolivian territory under the influence of Osama bin Laden and the Al-Qaida terrorist group.

3. CEAT has not received from the Committee the Consolidated List referred to in part II, question 2, above.

4. It has not received the List of names referred to in part II, question 3, above.

5. The monitoring and follow-up carried out by CEAT has so far not detected any relationship between Islamic radicals residing in or transiting across Bolivia and elements linked to this form of Islamic fundamentalist terrorism.

6. With respect to questions 5 and 6 concerning the Consolidated List, CEAT has not received the names of individuals or entities associated with Osama bin Laden or members of Taliban or Al-Qaida. There have been no lawsuits or legal proceedings concerning Listed individuals.

7. CEAT has not detected any activity by nationals or residents linked to terrorism or actions by radical Islamist groups, and, as already mentioned, it has not received the List prepared by the Committee established pursuant to resolution 1267 (1999).

8. Bolivia does not have a specific law against terrorism, a social scourge which is a crime punishable under the Criminal Code in force (article 133 on "Crimes against public order"). Bolivia has ratified all the international conventions and agreements on combating and defeating terrorism.

Intelligence Note

Bolivia is aware that Latin America or one of its regions may be targeted by radical Islamist terrorist organizations or fundamentalist groups such as Al-Qaida and its associates. Because of its geopolitical situation, its extensive borders and its status as an underdeveloped country, Bolivia may be regarded as a likely place of refuge or transit for international terrorists.